

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALANNA KILES, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MATTHEW ALLEN KILES,

Respondent-Appellant.

UNPUBLISHED

July 31, 2007

No. 275433

Livingston Circuit Court

Family Division

LC No. 06-011416-NA

Before: Murphy, P.J., and Zahra and Servitto, JJ.

MEMORANDUM.

Respondent appeals as of right from an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g), (j), and (l).¹ Because the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence, and the evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests, we affirm.

Alanna Kiles (d.o.b. 7/28/06) came under the jurisdiction of the court when it was discovered that she was residing in a basement apartment in deplorable and hazardous living conditions, that her father (respondent) had a lengthy criminal history, including domestic violence against a past girlfriend's teenage daughter, and that respondent's parental rights to another of his children has previously been terminated. At the conclusion of a termination hearing, respondent's parental rights were terminated. Respondent now contends that the requisite statutory grounds for termination of his parental rights were not established and that termination was not in the child's best interests.

We review the trial court's findings of fact in termination proceedings for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination

¹ Contrary to what respondent asserts, the record indicates that termination of his parental rights was requested and granted under § 19b(3)(l), not § 19b(3)(i).

in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). “Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests.” *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000).

MCL 712A.19b(3) provides for the termination of parental rights under certain circumstances, including:

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

(l) The parent's rights to another child were terminated as a result of proceedings under section 2(b) of this chapter or a similar law of another state.

Here, the evidence clearly demonstrated that the child lived in an apartment littered with garbage and debris. Wires and ducts were exposed and the sheets in a crib at the apartment were covered with crusted food. The general condition of the apartment was unsafe for a child of any age, let alone an infant. Further, there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time.

Respondent has a rather lengthy history of criminality (including convictions for domestic violence, attempted larceny and felony firearm) and a prior protective services history. Respondent further failed to receive treatment in the past to address his parental deficiencies and his admitted prior substance abuse issues. Moreover, respondent was incarcerated during the proceedings with his earliest release date being June of 2007, rendering him unable to receive necessary treatment and services until at least that time. MCL 712A.19b(3)(g) and (j) were thus established by clear and convincing evidence.

Additionally, respondent's parental rights to another child were previously terminated in 2001, as a result of proceedings under MCL 712A.2(b), thus satisfying MCL 712A.19b(3)(l). Respondent had not had contact with that child in several years when his parental rights were terminated and, when he learned that the child's mother had beaten the child's younger brother to death, remained at his out-of-state residence without contacting the child or ensuring her well-being. The above also serves to as additional support for establishing the grounds for termination set forth in MCL 712A.19b(3)(g) and (j). Further, the evidence did not clearly show that termination of respondent's parental rights was not in the best interests of the child, who was

removed from respondent's custody shortly after her birth. MCL 712A.19b(5); *In re Trejo*, *supra* at 364-365. Thus, the trial court did not err in terminating respondent's parental rights to the child.

Affirmed.

/s/ William B. Murphy
/s/ Brian K. Zahra
/s/ Deborah A. Servitto